IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 22ND MARCH 2007 / 1ST CHAITHRA 1929

OP.No. 19165 of 2002(F)

PETITIONER:

I.K.GOPI, ILLIMOOTTIL HOUSE,
KONDADU P.O., RAMAPURAM.

BY ADV. SRI.P.BABU KUMAR

RESPONDENTS:
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1. TODDY WORKERS WELFARE FUND INSPECTOR,
KOTTAYAM, KOTTAYAM P.O.

2. DISTRICT COLLECTOR,
COLLECTORATE, KOTTAYAM.

3. TAHSILDAR, MEENACHIL,
TALUK OFFICE, PALA.

4. GIRISH K.K., VADAKKANATTU HOUSE,
KONDADU P.O., RAMAPURAM.

R1 BY ADV. SRI.A.K.JOHN, SC
R2&3 BY GOVERNMENT PLEADER SMT.R.BINDU

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 22/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO.32765/2002 IN O.P. NO.19165/2002

DISMISSED:

22.3.2007 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: PHOTOCOPY OF THE NOTICE ISSUED TO THE PETITIONER BY R1 DT.26.8.98.

P2: PHOTOCOPY OF FINAL ASSESSMENT FOR THE TODDY SHOP NO.107 OF PALA EXCISE RANGE FOR THE YEAR 98-99 DT.29.4.2000.

P3: PHOTOCOPY OF FINAL ASSESSMENT ORDER FOR THE TODDY SHOP NO.107 FOR THE YEAR 1999-2000.

TRUE COPY

P.A. TO JUDGE

C.N.RAMACHANDRAN NAIR,J.

O.P. NO.19165 OF 2002

Dated this the 22nd day of March, 2007

JUDGMENT

Petitioner's case is that petitioner was not the licensee and fifth respondent was the licensee for the toddy shop. However, standing counsel submitted that on enquiry petitioner was found carrying on business and therefore petitioner is liable as employer. It is not known on what basis petitioner took over management of the toddy shop during the relevant year. Even though petitioner is not the licensee, petitioner will still be liable as he was admittedly carrying on the business in the toddy shop. Even if petitioner was only manager, it was the duty of the petitioner to recover employees contribution and remit the same along with employer's contribution. In the circumstances, and in the absence of any document to establish petitioner's relation with the licensee, which made him carry on the business, O.P. lacks merits and is dismissed leaving freedom to the respondents to proceed for recovery against the petitioner.

(C.N.RAMACHANDRAN NAIR)
Judge